

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PATRIOT AMERICAN HOSPITALITY
PARTNERSHIP, L.P., et al.,

Plaintiffs,

Case No. 03-75175

v.

Honorable Arthur J. Tarnow
United States District Judge

BAYBEST RIBS, L.L.C.,

Magistrate Judge Donald A. Scheer

Defendant.

ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT’S MOTION TO STAY ENFORCEMENT OF JUDGMENT PENDING
APPEAL [# 57]

On November 2, 2005, this Court entered judgment for Plaintiff Wyndham in the amount of \$609,228.64. On November 3, 2005, Defendant Baybest Ribs L.L.C. filed a Motion to Stay Enforcement of Judgment Pending Appeal [57] pursuant to Federal Rule of Civil Procedure 62 (d). Defendant asks this Court to stay the execution of the judgment pending the outcome of the appeal either preferably without a bond or in the alternative “with a bond in a minimal amount to be determined by the Court.”

Plaintiff Patriot American Hospitality Partnership, *et al.* [“Wyndham”], filed a Response [58] the following day opposing a stay of judgment without a supersedeas bond, but agreeing to a stay of judgment if an appropriate bond is given by Baybest and approved by the Court.

The text of Rule 62(d) states:

When an appeal is taken the appellant by giving a supersedeas bond may obtain a stay subject to the exceptions contained in subdivision (a) of this rule. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal, as the case may be. The stay is effective when the supersedeas bond is approved by the court.

Having reviewed both parties’ briefs and considered Federal Rule of Civil Procedure

62(d),

IT IS HEREBY ORDERED THAT Defendant's Motion to Stay Enforcement of Judgment Pending Appeal [57] is GRANTED IN PART AND DENIED IN PART.

IT IS FURTHER ORDERED THAT this Court stays the judgment upon appeal on the condition that Baybest posts a supersedeas bond in the court approved amount of \$600,000.

IT IS SO ORDERED.

s/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

Dated: November 9, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 9, 2005, by electronic and/or ordinary mail.

s/Theresa E. Taylor
Case Manager